

# EXHIBIT F

## Esther Sung

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**From:** Esther Sung  
**Sent:** Sunday, August 13, 2023 11:15 PM  
**To:** Ryan Walters; Monika Langarica; Fudim, Elissa P. (CIV)  
**Cc:** Erez Reuveni; Ward, Brian C. (CIV); Ryan, Erin T. (CIV); Karen Tumlin; Vanessa Rivas; Jane Bentrrott  
**Subject:** RE: TX v. DHS / CHNV - draft motion for leave to amend exhibit list / motion to extend time to object

Dear Ryan:

I do not understand why a motion to strike is necessary. As we had previously discussed, Intervenor Defendants' amended exhibit list consists of:

- Exhibits 1-65, which were included on Intervenor Defendants' original Witness and Exhibit List filed on August 2, 2023, ECF No. 207;
- Exhibits 66-68, which are the three additional exhibits of CBP data that I circulated by e-mail to Plaintiffs and Federal Defendants last week on August 8, 2023; and
- Exhibits 69-144, which, along with an authenticating declaration for the exhibits, are the exhibits and declarations submitted in support of Intervenor Defendants' Opposition to Motion for Preliminary Injunction, filed on June 20, 2023, ECF No. 175. The exhibits and declarations were filed as ECF No. 175-2 through ECF No. 175-76.

There are no additional exhibits or declarations on the proposed Amended Exhibit List.

To make the point clearer: Intervenor Defendants originally submitted 50 exhibits (Exhibits 1 through 50, filed at ECF 175-2 through ECF 175-51 and outlined in my authenticating declaration at ECF No. 175-1) and 25 declarations (Exhibits A through Y, filed at ECF 175-52 through ECF 175-76 ) in support of our PI Opposition. Along with my authenticating declaration, these are the 76 new entries on the Amended Exhibit List noted at numbers 69-144. If necessary, we can annotate for you on the Amended Exhibit List the specific ECF number for each exhibit and declaration originally filed with Intervenor Defendants' PI Opposition.

If you insist on filing a motion to strike, we will oppose, not least because the additions to the Amended Exhibit List are entirely consistent with what we had discussed multiple times over the phone and via e-mail, and with what is memorialized in the Unopposed Motion for Leave to Amend on page 2: (1) "three additional exhibits that were inadvertently omitted" from our original Witness and Exhibit List, filed on August 2; and (2) "the exhibits and declarations previously attached to Intervenor Defendants' Opposition to Plaintiff State's Motion for a Preliminary Injunction, ECF No. 175."

I am happy to discuss further tomorrow morning if necessary – please let me know if you'd like to get on the phone.

Thanks,  
Esther

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**From:** Ryan Walters <Ryan.Walters@oag.texas.gov>  
**Sent:** Sunday, August 13, 2023 10:09 PM  
**To:** Monika Langarica <langarica@law.ucla.edu>; Esther Sung <Esther.Sung@justiceactioncenter.org>; Fudim, Elissa P. (CIV) <Elissa.P.Fudim@usdoj.gov>

**Cc:** Erez Reuveni <erez.r.reuveni@usdoj.gov>; Ward, Brian C. (CIV) <Brian.C.Ward@usdoj.gov>; Ryan, Erin T. (CIV) <Erin.T.Ryan@usdoj.gov>; Karen Tumlin <karen.tumlin@justiceactioncenter.org>; Vanessa Rivas <vanessa.rivas@raicestexas.org>; Jane Bentrott <Jane.Bentrott@justiceactioncenter.org>; Ryan Walters <Ryan.Walters@oag.texas.gov>

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**Importance:** High

All: we are filing a motion to strike Intervenor's amended exhibit list, which greatly exceeds the bounds of what we agreed to and what the motion for leave explicitly states. Intervenor's stated that they wanted a handful of CBP data documents to be added, as well as the declarations and exhibits that were included with your opposition to the PI motion. Instead, you file an amended list that includes a slew of new exhibits, including many supplemental declarations we have never seen, as well as emails among counsel. We are filing our motion at 9 am central tomorrow morning and will mark Intervenor's as opposed unless we hear otherwise. We would appreciate hearing DOJ's position beforehand, however.

Ryan



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**From:** Ryan Walters <[Ryan.Walters@oag.texas.gov](mailto:Ryan.Walters@oag.texas.gov)>

**Sent:** Wednesday, August 9, 2023 8:19 PM

**To:** Langerica, Monika <[langarica@law.ucla.edu](mailto:langarica@law.ucla.edu)>; Esther Sung <[Esther.Sung@justiceactioncenter.org](mailto:Esther.Sung@justiceactioncenter.org)>; Fudim, Elissa P. (CIV) <[Elissa.P.Fudim@usdoj.gov](mailto:Elissa.P.Fudim@usdoj.gov)>

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Monika, those deadlines sound good to us. Thanks



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**From:** Langerica, Monika <[langarica@law.ucla.edu](mailto:langarica@law.ucla.edu)>  
**Sent:** Wednesday, August 9, 2023 8:11 PM  
**To:** Ryan Walters <[Ryan.Walters@oag.texas.gov](mailto:Ryan.Walters@oag.texas.gov)>; Esther Sung <[Esther.Sung@justiceactioncenter.org](mailto:Esther.Sung@justiceactioncenter.org)>; Fudim, Elissa P. (CIV) <[Elissa.P.Fudim@usdoj.gov](mailto:Elissa.P.Fudim@usdoj.gov)>  
**Cc:** Erez Reuveni <[erez.r.reuveni@usdoj.gov](mailto:erez.r.reuveni@usdoj.gov)>; Ward, Brian C. (CIV) <[Brian.C.Ward@usdoj.gov](mailto:Brian.C.Ward@usdoj.gov)>; Ryan, Erin T. (CIV) <[Erin.T.Ryan@usdoj.gov](mailto:Erin.T.Ryan@usdoj.gov)>; Karen Tumlin <[karen.tumlin@justiceactioncenter.org](mailto:karen.tumlin@justiceactioncenter.org)>; Vanessa Rivas <[vanessa.rivas@raicestexas.org](mailto:vanessa.rivas@raicestexas.org)>; Jane Bentrott <[Jane.Bentrott@justiceactioncenter.org](mailto:Jane.Bentrott@justiceactioncenter.org)>  
**Subject:** RE: TX v. DHS / CHNV - draft motion for leave to amend exhibit list / motion to extend time to object

Hi Ryan,

Thanks for following up. First, to reiterate, we think the declarations and exhibits we filed in support of our PI opposition are part of the trial record by function of the scheduling order, ECF 159, and we maintain that we timely disclosed them by incorporating them by reference in our exhibit and witness list, ECF 207, and that you could have objected to them in Texas's objections, ECF 210.

Nevertheless, we proposed additionally listing those declarations and exhibits in our forthcoming amended exhibit list for the sake of providing greater clarity to the parties and the Court, and to avoid unnecessary motions practice. We agreed to extend your deadline to file objections to those exhibits as part of that proposal, but we did not anticipate injecting more briefing in the form of additional motions to exclude evidence ahead of trial.

To the extent your agreement is contingent on building in additional briefing, in light of how close we are to trial and of Ms. Papaioannou's email from today indicating objections and responses to the declarations must be filed "well in advance of the trial," we would agree to a shorter timeline for any motions to exclude evidence included in our forthcoming amended exhibit list, with your objections and any motions to exclude due by **8/14**, and any responses due by **8/18**.

Please let us know what you think. Thanks.

Monika

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Monika Y. Langerica (she/her)  
Senior Staff Attorney  
**Center for Immigration Law and Policy (CILP)**  
**UCLA School of Law**  
[Website](https://www.cilp.org/) | [Twitter](https://twitter.com/cilp) | [Facebook](https://www.facebook.com/cilp) | [Instagram](https://www.instagram.com/cilp) | [YouTube](https://www.youtube.com/cilp)

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**From:** Ryan Walters <[Ryan.Walters@oag.texas.gov](mailto:Ryan.Walters@oag.texas.gov)>  
**Sent:** Wednesday, August 9, 2023 3:18 PM  
**To:** Esther Sung <[Esther.Sung@justiceactioncenter.org](mailto:Esther.Sung@justiceactioncenter.org)>; Fudim, Elissa P. (CIV) <[Elissa.P.Fudim@usdoj.gov](mailto:Elissa.P.Fudim@usdoj.gov)>  
**Cc:** Erez Reuveni <[erez.r.reuveni@usdoj.gov](mailto:erez.r.reuveni@usdoj.gov)>; Ward, Brian C. (CIV) <[Brian.C.Ward@usdoj.gov](mailto:Brian.C.Ward@usdoj.gov)>; Ryan, Erin T. (CIV) <[Erin.T.Ryan@usdoj.gov](mailto:Erin.T.Ryan@usdoj.gov)>; Karen Tumlin <[karen.tumlin@justiceactioncenter.org](mailto:karen.tumlin@justiceactioncenter.org)>; Langerica, Monika <[langarica@law.ucla.edu](mailto:langarica@law.ucla.edu)>; Vanessa Rivas <[vanessa.rivas@raicestexas.org](mailto:vanessa.rivas@raicestexas.org)>; Jane Bentrott <[Jane.Bentrott@justiceactioncenter.org](mailto:Jane.Bentrott@justiceactioncenter.org)>; Ryan Walters <[Ryan.Walters@oag.texas.gov](mailto:Ryan.Walters@oag.texas.gov)>  
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Esther, this looks good to us. Here is our signature block added... I have also added language (tracked) asking for a deadline for Plaintiffs to file any motion to exclude any of the added exhibits on the same day as our objections, and giving you a week after that (two days before pre-trial) to file any response.

I also wanted to flag that you refer to the "Individual Defendants" here instead of the Intervenor Defendants; obviously you can do what you want on that, but just wanted to note it as that has not how y'all have been doing it.

Thanks for drafting this!  
Ryan



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**Sent:** Wednesday, August 9, 2023 4:48 PM

**To:** Ryan Walters <[Ryan.Walters@oag.texas.gov](mailto:Ryan.Walters@oag.texas.gov)>; Fudim, Elissa P. (CIV) <[Elissa.P.Fudim@usdoj.gov](mailto:Elissa.P.Fudim@usdoj.gov)>

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Hi, Ryan and Elissa—

As promised, I am attaching a draft motion that would allow Intervenor Defendants to file an amended exhibit list and Plaintiff States 5 days to object to the newly added exhibits. Please let me know if the draft motion is acceptable to you. We hope to be able to button this up and file with the court tomorrow.

Also, Ryan, if the motion is acceptable to Plaintiff States, could you please either send me your signature block or drop it into the draft motion?

Thanks,  
Esther